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FACSIMILE COVER SHEETUNITED STATES PATENT AND TRADEMARK OFFICE

First Inventor: Andreas BRUN
Serial No.: 10/049,454
Filing Date: February 12, 2002
Title: SLEEPING BAG
Examiner: Unassigned
Art Unit: Unassigned
Attorney Docket No.: MERTE.Y3-20 (formerly MPF 001)
Customer No.: 28752

RECEIVED
10 JUL 2006
Legal Staff
International Division

ATTN: Richard Ross, Esq.
MAIL STOP PCT LEGAL
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

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I hereby certify that this correspondence is being transmitted via facsimile No. (571) 273-0459, and is addressed to: Mail Stop PCT Legal, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on July 10, 2006.

Signature
Name

: 
: ANDREW F. YOUNG

Transmitted herewith:

1. Transmittal Sheet with Comments – this document (2-pages).
2. Copy of April 20, 2006 Petition to revive abandoned patent application (2 pages).
3. Copy of Statement (1 page).
4. An additional copy of USPTO's response to status request (4 pages)

COMMENT

Applicant respectfully notes as follows. The earlier Petition to Revive was submitted on April 20, 2006, and subsequent telephone calls to the USPTO's office of Petition noted the following items:

- (1) Since the initial petition submission on April 20, 2006, there has been some difficulty in locating and matching both the enclosed petition-to-revive and the original file at the USPTO. Applicant has made multiple calls in attempts to co-locate both the petition and application. The present submission is an attempt to direct this matter to the specific

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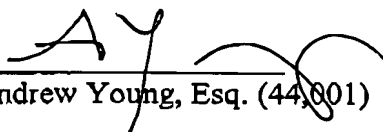
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petitions expert-of-interest (Richard Ross, Esq.). Mr. Ross was indicated during Applicant's conversation today with Ms. Somaia Basheir at PCT Legal, who suggested such a disposition as the most beneficial.

- (2) It is believed the file was earlier ordered (charted to location 4700?) on approximately 5/23/06 following a telephone call with Patricia Ball, Esq. who has been assisting Applicant in attempting to co-locate both the file and the petition before the proper individual for a decision. It is unknown whether or not the file may have been delivered and otherwise disposed. It is also unknown whether or not the earlier petition was entered in the record.
- (3) As will be noted from the enclosed papers and the electronic record, this matter has been taken over by this office/attorney. This matter is urgent.
- (4) All earlier deposit account authorizations remain.

Kindly let me know directly if you have any questions or concerns in locating the original petition and ultimately the file itself.

Sincerely yours,


Andrew Young, Esq. (44,001)

Lackenbach Siegel LLP

Date: July 10, 2006

Enclosures: (as listed above)

Total No. of pages, including this sheet: 10

***** COMM. *****

***** DATE APR-20-2006 *****

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MODE = MEMORY TRANSMISSION

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FACSIMILE COVER SHEET

UNITED STATES PATENT AND TRADEMARK OFFICE

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Customer No.: 28752

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I hereby certify that this correspondence is being transmitted via facsimile No. (571) 273-8300, and is addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on April 20, 2006.

Signature
Name

: ANDREW P. YOUNG

Transmitted herewith:

1. Petition to revive abandoned patent application (2 pages).
2. Statement (1 page).
3. Copy of USPTO's response to status request (4 pages)

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Lackenhach Siegel LLP

Date: April 20, 2006

Enclosures: (as listed above)

Total No. of pages, including this sheet: 8

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UNITED STATES PATENT AND TRADEMARK OFFICE

First Inventor: Andreas BRUN
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Signature:
Name: ANDREW F. YOUNG

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2. Statement (1 page).
3. Copy of USPTO's response to status request (4 pages)

Lackebach Siegel LLP
Date: April 20, 2006
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PAGE 01 * RCVD AT 4/20/06 3:25:06 PM [Eastern Daylight Time] * BYR:15P10-07J07-4301 * ON 5/2/06 * CSD:311/723-4301 * DURATION (min-sec):02-21

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Signature : 
Name : ANDREW F. YOUNG

Transmitted herewith:

1. Petition to revive abandoned patent application (2 pages).
2. Statement (1 page).
3. Copy of USPTO's response to status request (4 pages)

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Lackenbach Siegel LLP

Date: April 20, 2006

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Total No. of pages, including this sheet: **7**

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PTO/SB/64 (10-05)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

MERTE.Y3-20

First named inventor: Andreas BRUN

Application No.: 10/049,454

Art Unit: Unassigned

Filed: February 12, 2002

Examiner: Unassigned

Title: SLEEPING BAG

Attention: Office of Petitions
Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450
 FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions
 Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☒ Small entity-fee \$ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of \$20 due on total national phase filing fee (identify type of reply):

☐ has been filed previously on _____
☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____

☐ has been paid previously on _____
☐ is enclosed herewith.

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[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/64 (10-05)

Approved for use through 07/31/2006, OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

AY
Signature
ANDREW F. YOUNG
Typed or printed name
One Chase Road
Address
Scarsdale, NY 10583
Address

April 20, 2006
Date
44,001
Registration Number, if applicable
(914) 723-4300
Telephone Number

Enclosures: ☒ Fee Payment☐ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unintentional delay☒ Other: Statement and copy of USPTO response to status request**COPY****CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

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- ☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
- ☒ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

April 19, 2006

Date

AY
Signature
ANDREW F. YOUNG
Typed or printed name of person signing certificate

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Inventor: Andreas BRUN
Serial No.: 10/049,454
Filing Date: February 12, 2002
Title: SLEEPING BAG
Examiner: Unassigned
Art Unit: Unassigned
Attorney Docket No.: MERTE.Y3-20 (formerly MPF 001)
Customer No.: 28752

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STATEMENT

Sir:

The above-noted patent application was previously abandoned unintentionally, and a first petition to revive was filed on April 9, 2004 by the initial attorney of record, Mark R. Gordon-Lendvay, Esq. The undersigned attorney submits that the application was again abandoned unintentionally by Mr. Gordon-Lendvay's failure to respond to the USPTO's notice rejecting the first petition for insufficient fee.

Responsibility for this application was transferred to the undersigned attorney in February 2005. The undersigned attorney filed on March 15, 2005; (1) a Change of Correspondence Address Request, (2) change of power of attorney and (3) a Status Request of the application. No response to the Status Request was received from the USPTO. On August 20, 2005 and again on August 25, 2005, applicant's attorney filed a second and third Status Requests with the USPTO.


Thereafter, applicant's attorney received a Notice of Acceptance of Power of Attorney dated September 14, 2005. On April 6, 2006, applicant's attorney received a status reply (copy enclosed) from the USPTO, which indicates that a decision dismissing the petition was mailed to the original attorney of record on April 27, 2004, and immediately took steps to file this petition to revive the application. Applicant respectfully submits herewith a petition to revive the application under 1.137(b), and requests that the application be revived based on the above statement.

The Commissioner is hereby authorized to charge \$770.00 small entity (\$750 for the petition and \$20 for the outstanding balance on the filing fee), and any additional fees, which may be required with this communication, or credit any overpayment to **Deposit Account No. 10-0100**.

Respectfully submitted,

April 20, 2006

Date


Andrew F. Young, Esq., Reg. No. 44,001
Lackebach-Siegel LLP
One Chase Road
Scarsdale, NY 10583
914-723-4300 (telephone)
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United States Patent and Trademark Office

06 APR 2006

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

Andrew Young
ANDREW F. YOUNG, P.C.
115 Orchid Street
Floral Park, New York 11001

Dear Mr. Young:

This is in response to your Request for Second Request for Status received 20 August 2005 with regard to U.S. 371 application 10/049,454. According to U.S. Patent and Trademark Office records, a decision dismissing the Petition to Revive international application PCT/IB00/01295 was mailed to the applicant on 27 April 2004. That application is now abandoned due to the failure to respond to the decision of 27 April 2004. A copy of the decision is attached herewith for applicant's convenience.

Sincerely,

A handwritten signature in black ink that reads "Nguyễn Ngọc Hồ".

Nguyễn Ngọc-Hồ
Paralegal Specialist
PCT Legal Office
Tel: (571) 272-3290

Enclosure:

- Copy of decision

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27 APR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

Mark R. Gordon-Lendvay
P.O. Box 101
White Plains, New York 10605

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In re Application of :
BRUN, Andreas :
Application No.: 10/049,454 :
PCT Application No.: PCT/IB00/01295 :
International Filing Date: 02 August 2000 :
Priority Date: 12 August 1999 :
Attorney Docket No.: MPF 001 :
For: SLEEPING BAG :

DECISION ON

PETITION

UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR § 1.137(b)," filed in the United States Patent and Trademark Office on 09 April 2004, is DISMISSED without prejudice.

BACKGROUND

*On 02 August 2000, applicant filed international application number PCT/IB00/01295, claiming priority of an earlier German application, filed on 12 August 1999. The United States of America was designated in the Request. A copy of the international application was transmitted by the International Bureau to the United States Patent and Trademark Office on 22 February 2001. Applicant timely filed a Demand on 02 March 2001, electing the United States of America. Accordingly, the thirty-month period for paying the basic national fee in the United States of America expired at midnight on 12 February 2002.

On 12 February 2002, applicant filed a transmittal letter for national stage entry. Among applicant's transmittal papers were an executed inventor declaration, a translation of the international application, and credit card authorization to pay the basic national stage filing fee of \$445.

On 16 April 2002, applicant was mailed a Notification of Abandonment FORM PCT/DO/EO/909 on the grounds that applicant had failed to pay the requisite national stage fees since applicant's credit card payment had been declined and since applicant had not provided an alternative deposit account for making payment.

On 09 April 2004, applicant filed the instant petition for revival of the application on the grounds of unintentional abandonment; including, *inter alia*, \$440 for basic-national-stage-fees.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed

Application Serial No. 07/049,454

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2

without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

With regard to item (1) above, applicant has stated that "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Since, as demonstrated below, this petition is not grantable, the requirement of item (1) above is not satisfied.

With regard to item (2) above, applicant has provided \$440 for the required basic national fees. However, the required basic national fee is \$460, and so the requirement of item (2) above is not satisfied.

With regard to item (3) above, applicant has provided the required petition fee, meeting the requirement of item (3) above.

With regard to item (4), a terminal disclaimer is not required as the application was filed after 08 June 1995.

Accordingly, because the requirements of items (1) and (2) above have not been satisfied, all of the requirements under 37 CFR 1.137(b) have not been satisfied, and so the petition is dismissed.

CONCLUSION

Because applicant has failed to satisfy items (1) and (2) above, the petition to revive the abandoned application under 37 CFR 1.137(b) is DISMISSED without prejudice as to National Stage in the United States of America.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." Extensions of time are available under 37 CFR 1.136(a).

Application Serial No. 10/67,454

3

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, USA and address the contents of the letter to the attention of the Office of PCT Legal Administration.



Michael La Villa
Detailee
Office of PCT Legal Administration
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Facsimile: (703) 308-6459



Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration
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